

REMARKS

Applicant herein reaffirms the provisional election of species 1, Claims 1-4, 6, 10 and 11 with traverse, as set forth in its amendment filed December 31, 2003. The basis for the provisional election was that the species are variants of the generic filter housing system as claimed in amended Claim 1.

The original Claim 1 was drawn to a housing system including a first and second housing member and an interchangeable mounting plate comprising one or more apertures for releasably mounting fluid filter elements. The interchangeable mounting plates are described in the Specification as capable of accommodating different fluid treatment elements (see Specification page 2, line 5).

Although the Examiner indicated that each of the configurations represent different species, including multiple filter element mounting plates, each belongs to a single genus, namely, the interchangeable system.

Generic claims allow all claims of species that meet the limitations of the generic claim, see *John A. Bailey v. Dart Container Corp. of Michigan et al.*, 157 F.Supp.2d 110, 127, citing MPEP § 806.04(d). One common way of expressing a generic claim is to identify an element common to the several species claims. *Id* at 127. Claim 1, as amended, recites a first housing member, a second housing member and a plurality of interchangeable mounting plates for releasably mounting different fluid treatment elements, and therefore, “reads on” each of the claimed species.

As stated in the Manual of Patenting Examining Procedure, in an application presenting multiple species, a generic claim should read on each of the species, and include no material element additional to those recited in the species claims. See MPEP § 806.04(d). Also, the generic claim must “comprehend” within its confines the organization covered in each of the species. *Id*.

A generic claim must relate to a species of the same type of claim, and cannot include limitations which are not present in each of the added species claims. See *Michaels of Oregon Co., v. Clean Gun, LLC*, unpublished, WL 31496414, *9, (D. Or. 2002), citing MPEP § 806.04(d). As amended, the invention

calls for a plurality of interchangeable mounting plates comprising one or more apertures for mounting different fluid filter elements within the first and second housing members, providing the basis for the generic claim of the invention. Moreover, amended Claim 1 “comprehends within its confines the organization covered in each of the species” by claiming interchangeable mounting plates which includes all the limitations of the claimed species. As such, the species of various shaped filter element mounting plates, i.e. “flat” or “basket,” are **not** individual inventions and share the same common features.

Applicant maintains that the invention is the adaptability of the fluid treatment element housing system to accommodate a variety of fluid treatment element configurations. In keeping, Claim 1 was amended to more particularly define the invention to include a plurality of mounting plates, wherein the different plates accommodate different types of fluid treatment elements. The plurality of mounting plates permit the adaptability of the claimed system.

In this regard, the amendment to Claim 1, previously elected with traverse, more particularly defines the present invention by merely adding an element (a second or additional mounting plates) to the original claim. As such, amended Claim 1 is indeed drawn to the embodiment of original Claim 1 and is responsive to the Office Action.

Amended Claim 1 represents the scope of the invention of original Claim 1 with an additional element. No new matter has been added and Claim 1 is fully supported in the Specification (see Specification at page 2, lines 1-28, Figures 1-13, and throughout the “Detailed Description of the Preferred Embodiment”, pages 4-10). Since amended Claim 1 clearly defines the generic housing with interchangeable mounting plates adaptable to various fluid treatment operations, reconsideration of the finding that the amended claims are not readable on the elected invention is respectfully requested.

Should the Examiner maintain that the claimed invention can only be one species and not the entire genus, without allowing applicant to draw a claim to the genus, applicant requests that a final rejection be issued to permit applicant to petition on this ground.

In view of the foregoing, applicant respectfully submits that the pending claims are properly presented in response to the restriction requirement, that the Amendment filed is responsive to the Office Action and that the claims are allowable over the cited prior art. Favorable consideration is therefore respectfully requested and earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'K. Plorek', with a long horizontal stroke extending to the right.

Kenneth F. Plorek
Registration No. 33,173

MAILING ADDRESS:

Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, NY 10036-2601
(212) 302-8989